

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES

DECISION ON
WISCONSIN ENVIRONMENTAL POLICY ACT COMPLIANCE FOR ENERGY
SERVICES OF MANITOWOC, L.L.C.
PROPOSED GENERATING STATION

INTRODUCTION

The Wisconsin Environmental Policy Act (WEPA, s. 1.11, Stats.) requires state agencies to prepare an Environmental Impact Statement (EIS) for major state actions significantly affecting the quality of the environment. The Department of Natural Resources (DNR) prepared an EIS for Energy Services of Manitowoc, LLC's proposed 99 megawatt (MW) Fluidized Bed Boiler generating station.

That facility is proposed for installation at a site in the City of Manitowoc, Manitowoc County, Wisconsin (Figure 1). It would be operated on a baseload basis, at times of normal demand for electric power.

Wastewater would be produced from various in-plant facilities. Heated water from the once-through cooling system would be discharged to Lake Michigan east of the power plant, and south of the existing City wastewater treatment plant, under a WPDES permit. That permit will include restrictions on the temperature of the discharge water. Other plant wastes will be discharged to the City sewerage system. The requirements of the municipality's pretreatment program would have to be met. Water for cooling purposes would be obtained from an intake constructed 5000 feet out into the lake. Both the intake structure and pipe, and the discharge structure will require permits under ch. 30 of the Wisconsin Statutes.

State actions affecting the power plant and water supply and discharge components were the subject of this EIS. The DNR's regulatory authorities applicable to this project are:

Air pollution control permits under ss. 285.60, 285.61 and 285.62 Stats., and
chs. NR 406 and 407, Wis. Admin. Code, for the fluidized bed boiler.

A construction stormwater management approval under ch. NR 216, Wis. Admin. Code.

A wastewater discharge permit under ch. 283, Stats.

Permits issued under ch. 30, Stats. for the intake and discharge structures.

This Decision considers requirements of these regulatory actions as well as other environmental considerations.

FINDINGS OF FACT

The Department of Natural Resources (hereinafter DNR) finds that:

- 1). The EIS process was conducted as authorized by ch s. NR 150. That process included issue identification (scoping) activities in which affected members of the public were asked to help identify important issues and determine the depth of analysis in the EIS. The issues relevant to DNR authority which were identified included the effects of air pollutant emissions, the effects of water usage and discharge on water quality, especially thermal impacts, and effects of site construction and operations on wildlife. Other issues not subject to DNR authority include the impacts of noise and traffic associated with the construction and operation of the plant.
- 2). An EIS was issued for public comment in April, 2001, accompanied by a news release.
- 3) A public hearing on the EIS, along with the air and wastewater discharge permits was held on June 12, 2001, in the City of Manitowoc. Testimony submitted and statements and comments made at the public hearing were considered before preparing this Record of Decision.
- 4) Comments made at the public hearing primarily reflected the same concerns that emerged in the scoping process. The most frequent comment relevant to environmental consequences of the proposal concerned possible effects on local air quality, and surface water quality. Other comments referred to social and economic issues as well as public safety, which come under the authority of the local municipal government (some safety issues may be addressed through the Public Interest Review conducted for the Ch. 30 permits).

4). The DNR considered the EIS and all comments on it, along with the associated record, in the decision-making process. The record indicates that the proposal can comply with the regulatory requirements of all permits and approvals required of it by the DNR.

CONCLUSIONS OF LAW

The DNR concludes that:

- 1) The DNR, under s. 1.11, Stats., and ch. NR 150, Wis. Admin. Code, has the responsibility to comply with WEPA, and the authority to determine its' compliance with that Act.
- 2) The procedure and analysis identified in the Findings of Fact comply with the requirements of s. 1.11, Stats., and ch. NR 150, Wis. Admin. Code.

DECISION

The DNR has complied with the requirements of WEPA, s. 1.11, Stats. and Ch. NR 150, WAC, for the proposed Energy Services of Manitowoc power plant and associated facilities. This Decision applies to all subsequent DNR actions on the project, the impacts of which are considered in the EIS.

Dated at Madison, Wisconsin, this 27th day of June, 2001

STATE OF WISCONSIN
Department of Natural Resources
For the Secretary
Signed,
By *Steven Ugoretz* for
George Albright, Chief
Environmental Analysis and Liaison Section
Bureau of Integrated Science Services

NOTICE OF APPEAL RIGHTS

If you believe you have a right to challenge this decision, you should know that Wisconsin statutes and administrative rules establish time periods within which requests to review

Department decisions must be filed.

For judicial review of a decision pursuant to ss. 227.52, and 227.53, Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition shall name the Department of Natural Resources as the respondent.

To request a contested case hearing pursuant to s. 227.42, Stats., you have 30 days after the decision is mailed or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30-day period for filing a petition for judicial review.

This notice is provided pursuant to s. 227.48 (2), Stats.